

**IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF WEST VIRGINIA**

**SHIRLEY OLIVERIO, Executor of the
Estate of LARRY L. LOCKWOOD,**

Petitioner,

v.

**U.S. DEPARTMENT OF VETERANS
AFFAIRS,**

Respondent.

Civil Action No.: 1:20-CV-250
Judge Keeley

ELECTRONICALLY
FILED
Oct 30 2020
U.S. DISTRICT COURT
Northern District of WV

PETITION TO APPROVE WRONGFUL DEATH SETTLEMENT

Petitioner, Shirley C. Oliverio, personal representative and executor of the Estate of Larry L. Lockwood, by and through her attorneys, hereby files this petition pursuant to W.Va. Code 55-7-6 and 55-7-7 and respectfully moves for approval of the underlying wrongful death settlement made by and between the Petitioner and the Respondent, U.S. Department of Veterans Affairs, as well as approval of attorney's fees and costs and seeks authority to distribute the settlement proceeds from said settlement.

1. Ms. Oliverio is the duly appointed personal representative and executor of the Estate of Larry L. Lockwood.¹
2. Ms. Oliverio is an adult, being over the age of eighteen years.
3. The claim at issue alleged medical malpractice resulting in the wrongful death of Larry L. Lockwood on May 5, 2019² concerning care rendered at the Louis A. Johnson VA Medical Center in Clarksburg, West Virginia.

¹ **Exhibit A**, Letter of Administration (June 7, 2019).

² **Exhibit B**, Medical Examiner's Certification of Death (May 9, 2019).

4. The settlement at issue would, if approved, resolve Ms. Oliverio's claim for the wrongful death of Larry L. Lockwood based upon pre-suit resolution of this claim.

5. Ms. Oliverio, by and through her lawyers, served notice of settlement upon all known, potential wrongful death settlement beneficiaries, including the following persons:

- a. Anthony Alan Lockwood, last known address in Sterling Heights, MI 48310-3626;
- b. Anton Lockwood, last known address in Clinton Township, MI 48038-3119; and
- c. Jerry Hayden, last known address in Saint Clair, MI 48079-5047.

Anthony Lockwood and Anton Lockwood are the estranged sons of the decedent, Larry L. Lockwood with whom decedent had no contact with for many years, but nonetheless, a diligent investigation revealed, upon information and belief, that Anthony Lockwood and Anton Lockwood reside in Michigan. Counsel will advise Anthony and Anton Lockwood of the hearing seeking approval of this claim via certified mail at their last known address, as well as by publication of the hearing in a newspaper in the area in which Anthony and Anton Lockwood are believed to reside. A publication will also be made in a newspaper in Clarksburg, West Virginia as well. Jerry Hayden is believed to be a biological son of Larry L. Lockwood. Larry L. Lockwood, who upon information and belief relinquished all parental rights as to Jerry Hayden when Jerry Hayden was but 1-2 years old and has not had any contact with Jerry Hayden for upwards of 50 years. Mr. Hayden will be provided notice of the hearing via certified mail at the address believed to be his residential address, as well as by publication notice in a newspaper in the area in which Mr. Hayden is believed to reside. In addition, by his Last Will and Testament, Mr. Lockwood expressly disinherited Anthony Lockwood, Anton Lockwood, and Jerry Hayden:

I have three children: Anthony Lockwood, Anton Lockwood, and Jerry Hayden.
All references in my Will to "my children" are references to these children.

References to "my descendants" are to my children and their descendants.

However, I am specifically disinheriting Anthony Lockwood, Anton Lockwood, and Jerry Hayden and their descendants. Therefore, for the purposes of my Will, Anthony Lockwood, Anton Lockwood, and Jerry Hayden and their descendants are presumed to have predeceased me.³

While the will, prepared in 2013, does not provide an address for Mr. Lockwood's sons, counsel contacted the attorney who prepared the will, Seamon Law Offices, to determine the location of any of Mr. Lockwood's children.

6. Apart from herself, Petitioner is not aware of any other potential beneficiaries, including any adopted children, stepchildren, brothers, sisters, parents, or any other person who may have been financially dependent upon Larry L. Lockwood at the time of his death or who would otherwise be equitably entitled to share in the subject distribution.

7. The Last Will and Testament of Larry L. Lockwood provides specifically for Ms. Oliverio due to the sustained, loving relationship they enjoyed as co-inhabitants for more than a decade. Ms. Oliverio was financially dependent upon Mr. Lockwood as co-inhabitants.

8. Under the proposed settlement agreement, the terms of which both parties deem satisfactory, fair, and reasonable, the Department of Veterans Affairs will pay Petitioner a cash settlement in exchange for a full release of any and all claims arising from the death of Larry L. Lockwood on May 5, 2019.

9. For the Court's benefit and approval, counsel will provide a detailed statement, under seal, outlining the gross settlement amount, as well as attorney's fees and costs incurred in pursuing this claim and settlement.

10. Accordingly, Petitioner respectfully requests that the Court provide a hearing date for approval of the settlement and for an order approving distribution of the net settlement proceeds

³ **Exhibit C**, Last Will and Testament of Larry L. Lockwood § 1.02 (Oct. 13, 2014).

as directed by the Court, thereby granting her authority, as the duly appointed personal representative and executor of the Estate of Larry L. Lockwood, to execute full and complete releases, forever discharging Respondent, its servants, employees, insurers, and/or assigns from any and all further liability related to or arising from the alleged wrongful death of Larry L. Lockwood on May 5, 2019. In doing so, Petitioner understands that she will have no future claims, either individually or as personal representative and executor of the Estate of Larry L. Lockwood, related to or arising from the alleged wrongful death of Larry L. Lockwood on May 5, 2019.

WHEREFORE, Petitioner respectfully prays that her Petition be inspected by this Court and filed; that an order detailing the distribution of net settlement proceeds be made; for approval of attorney's fees and costs; that the Court authorize Petitioner to enter into the settlement agreement(s) and release(s) necessary to effectuate this settlement; and for such other order and relief the Court may deem just and proper.

**SHIRLEY OLIVERIO, Executor of the
Estate of LARRY L. LOCKWOOD**

By Counsel



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**U.S. DEPARTMENT OF VETERANS
AFFAIRS,**

Defendant.

CERTIFICATE OF SERVICE

The undersigned hereby certifies the foregoing **PETITION TO APPROVE
WRONGFUL DEATH SETTLEMENT** has been served upon the following, via electronic mail,
this 30th day of October, 2020:

Rebecca A. Weaver, Esq.
Department of Veterans Affairs
Office of General Counsel – Torts Law Group
810 Vermont Ave., NW
Suite 1127
Washington, DC 20420
Rebecca.Weaver2@va.gov



P. Gregory Haddad (WVSB #5384)